

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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**WRIT PETITION Nos.3892, 3894, 3895, 3896, 4125, 5066, 5144, 5233, 5742, 7608, 8582, 9685, 9720, 11722, 11723,
11724 and 11727 of 2005**

W.P.No.3892 of 2005

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Between:

M/s. Sujana Constructions, Rep. by its Managing Partner-
R.Ram Mohan Rao S/o. Papa Rao, 52 years, R/o. 1-10-149, Ashok Nagar,
Hyderabad.

..... PETITIONER

AND

- 1 The Secretary to Government of Andhra Pradesh, Roads & Buildings
Department, Secretariat, Hyderabad.
- 2 The Superintending Engineer, Roads & Buildings Circle, Kurnool,

Kurnool District.
- 3 The Executive Engineer, Roads & Buildings Division, Anantapur,
Anantapur District.
- 4 The Chief Engineer, Roads & Buildings, Erramanzil, Hyderabad.
- 5 Pay and Accounts Officer, Kurnool, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, Order or direction, particularly one in the nature of Writ of Mandamus, directing the respondents not to collect enhanced seigniorage charges from the petitioner in respect of all items in execution of contract works covered under the agreement and refund the enhanced seigniorage fee deducted from the bills of the petitioner.

Counsel for the Petitioner: MR.V.SREE RANGA RAO

Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

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WRIT PETITION NO : 3894 of 2005

Between:

S. Krishna Rao S/o Rama Rao, Special Class Contractor,

R/o H. No. 1-2-270/103/A/2 K.K. Road, Suryapet, Nalgonda District.

..... PETITIONER

AND

- 1 The Secretary to Government of Andhra Pradesh, Irrigation

- Department, Secretariat, Hyderabad.
- 2 The Executive Engineer, Roads & Buildings Division Nalgonda,
Nalgond District.
- 3 The Executive Engineer, Roads & Buildings Division Miryalaguda,
Nalgonda District.
- 4 The Superintending Engineer, Roads & Buildings Circle, Nalgonda,
Nalgnonda District.
- 5 The Chief Engineer, Roads & Buildings, NABARD,
Erramanzil, Hyderabad.
- 6 The Chief Engineer, Roads & Buildings Roads, Hyderabad.
- 7 Pay Accounts Officer, G.V. Garden Nalgonda, Nalgonda District.
- 8 Assistant Pay and Accounts Officer, Ranga Reddy Ranga Reddy
District at Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, particularly one in the nature of writ of mandamus, directing the respondents not to collect enhanced seigniorage charges from the petitioner in respect of all items in Execution of contract works covered under the agreement and refund the enhanced seigniorage fee deducted from the bills of the petitioner.

Counsel for the Petitioner: MR.V.SREE RANGA RAO

Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 3895 of 2005

Between:

M/s.Sujana Constructions, rep., by its Managing Partner,

R.Ram Mohan Rao, S/o Papa Rao,
R/o.1-10-149, Ashoknagar, Hyderabad.

..... PETITIONER

AND

- 1 The Secretary to Government of Andhra Pradesh, Roads & Buildings
Department, Secretariat, Hyderabad.
- 2 The Superintending Engineer, Roads & Buildings Circle, Nalgonda,
Nalgonda District.
- 3 The Executive Engineer, Roads & Buildings Division, Nalgonda,
Nalgonda District.
- 4 The Executive Engineer, Roads & Buildings Division, Miryalaguda,

- Nalgonda District.
- 5 The Chief Engineer, Roads & Buildings Roads, Hyderabad.
- 6 Pay and Accounts Officer, G.V.Garden, Nalgonda, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, particularly one in the nature of Writ of Mandamus, directing the respondents not to collect enhanced seigniorage charges from the petitioner in respect of all items in execution of contract works covered under the agreement and refund the enhanced seigniorage fee deducted from the bills of the Petitioner.

Counsel for the Petitioner: MR.V.SREE RANGA RAO
Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 3896 of 2005

Between:

M/s. Sujana Constructions, Rep by its Managing Partner-R.Ram Mohan Rao,
S/o. Papa Rao, aged 52 years, R/o. 1-10-149, Ashoknagar, Hyderabad.

..... PETITIONER

AND

- 1 The Secretary to Government of Andhra Pradesh, Roads & Buildings
Department, Secretariat, Hyderabad.
- 2 The Superintending Engineer, Roads & Buildings Circle, Warangal,
Warangal District.
- 3 The Executive Engineer, Special Execution Division, Mahaboobabad,
Warangal District.
- 4 The Chief Engineer, Roads and Buildings Erramanzil, Hyderabad.
- 5 Pay and Accounts Officer, Chintagattu, Hanamkonda, Warangal
District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, particularly one in the nature of Writ of Mandamus, directing the respondents not to collect enhanced seigniorage charges from the petitioner in respect of all items in execution of contract works covered under the agreement and refund the enhanced seigniorage fee deducted from the bills of the petitioner.

Counsel for the Petitioner: MR.V.SREE RANGA RAO
Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 4125 of 2005

Between:

M/s. Srinivasa Reddy Constructions rep by Managing Partner

D. Srinivasa Reddy, S/o Subbi Reddy, R/o.Srikakulam, Srikakulam District.

..... PETITIONER

AND

- 1 The Superintending Engineer, Roads & Buildings, Seethammadhara,
Visakhapatnam District.
- 2 The Executive Engineer, South Division, Roads & Buildings,
Srikakulam, Srikakulam District.
- 3 The Pay & Accounts Officer, Srikakulam, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus" declaring the action of the Respondents in seeking to apply the seigniorage charges in accordance with G.O. Ms. No.217, dt.29-09-2004 and respective of the work entrusted to the petitioner called NABARD-RIDF.IX-Improvements to NH.5 to Surampeta (Via) Narava, Mentada from KM 2/0 to 12/0 in Srikakulam District, an agreement was also entered into with petitioner by the 1st respondent for the execution and completion of the above work vide agreement C.R. No. 23/2004-05 dt.26-06-2004 as arbitrary, illegal and violative of Article 14 and 21 of Constitution of India and consequently direct the Respondents to recover the Seigniorage Charges in accordance with the charges mentioned in the agreement or in the alternative to charge the enhanced rates to the value of the estimate.

Counsel for the Petitioner: MR.Ch.SATISH KUMAR

Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 5066 of 2005

Between:

M/s.Real Constructions, rep., by its Managing Partner Md.Kamaluddin,
S/o Rafiyuddin, R/o Karimnagar, Karimnagar District.

..... PETITIONER

AND

- 1 The Superintending Engineer, Roads & Buildings Circle, Karimnagar,
 Karimnagar District.
- 2 The Executive Engineer, Roads & Buildings, Karimnagar,
 Karimnagar District.
- 3 The Pay & Accounts Officer, LMD Colony, Karimnagar,
 Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of "writ of mandamus" declaring the action of the respondents in seeking to apply the Seigniorage charges in accordance with G.O.Ms.No.217, dt.29-09-2004 and respective of the work entrusted to the petitioner called construction of High Level causeway at KM 13/5 of Koheda to Devakkapally viz. Ramachandrapuram Road, Karimnagar District to an agreement was also entered into with petitioner by the 1st respondent for the execution and completion of the above work vide agreement L.S.Agreement No.64/2004-2005 dt.17-6-2004, as arbitrary, illegal and violative of Article 14 and 21 of Constitution of India and consequently direct the respondents to recover the Seigniorage charges in accordance with the charges mentioned in the agreement or in the alternative to charge the enhanced rates to the value of the estimate.

Counsel for the Petitioner: MR.Ch.SATISH KUMAR

Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 5114 of 2005

Between:

M/s. Sri Venkateswara Balaji Constructions, Buchireddypalem, Nellore.
Rep. by its M.D. D. Subba rao S/o. Satyanarayana, aged 48 yrs,

R/o. Guntur.

..... PETITIONER

AND

- 1 The Superintending Engineer (Roads & Buildings) Circle, Guntur.
- 2 The Executive Engineer (Roads & Buildings) Tenali, Guntur District.
- 3 The Chief Engineer (Nabard), Errummanzil, Hyderabad.
- 4 The Pay & Accounts Officer (W & P) Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus directing the respondents not to collect enhanced seigniorage charges from the petitioners in respect of all items in execution of contract works covered under the agreement dt.2-9-04, 2.9.04, 9-9-04 and 9-9-04 and refund the enhanced seigniorage fee deducted from the bills of the petitioner.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO
Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 5233 of 2005

Between:

M/s. Adishakthi Constructions, 11-1-8/57/A, Beside Lakshmi Kalyana Mantapam, Nizamabad, rep. through its Managing Partner, L. Manohar Rao.

..... PETITIONER

AND

- 1. The Supt., Engineer, Roads & Bldgs, N.H. Circle, Erramanzil, Hyderabad.

2. The Executive Engineer (R&B), N.H. Division No.2, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a Writ of Mandamus or any other appropriate writ or Writs, Order or direction, declaring the action of the respondents in Seeking to recover Seigniorage charges from the petitioner firm as per G.O.Ms.No.217 dt.29.9.2004 in respect of the work entrusted to the petitioner, Viz. P.R. on Narpur-Hyderabad Section of NH 7 from KM 370/0 to 371/0, KM 372/0 to 374/0, KM 382/4 to KM 384/0, KM 386/0 to 387/6 and KM 309/6 to 391/6", pursuant to the Agreement No. 15/2004-2005 dt.22.9.2004 as illegal, arbitrary and without jurisdiction and to consequently direct the Respondents to recover Seigniorage charges from the petitioner only in accordance with the charges mentioned in the contract entered vide Agreement dt.22.9.2004 in Agreement No.15/2004-2005.

Counsel for the Petitioner: MR.K.RAGHUVVEER REDDY

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

WRIT PETITION NO : 5742 of 2005

Between:

P. Venkateswara Reddy, S/o. P. Lali Reddy,
R/o. Devanabanda Village, Pathikona Mandal, Kurnool District.

..... PETITIONER

AND

- 1 The Secretary to Government of Andhra Pradesh, Roads & Buildings
Department, Secretariat, Hyderabad.
- 2 The Executive Engineer, Roads & Buildings Division,
Kurnool, Near Raj Vihar Centre, Kurnool District.
- 3 The Pay and Accounts Officer, Housing Board Complex,
Abbas Nagar, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in insisting for payment and collection of enhanced seigniorage fee in accordance with G.O.Ms.No.217 dated 29-9-2004 in respect of the works done by the petitioner namely i) Urgent repairs to low burns in KM 84/0 to 90/0 Kurnool Bellary Road; ii) urgent repairs to road works in KM 15/0 to 16/2 and 3/0 to 7/0 of Billekal, Yemmiganoor road; iii) Urgent repairs to sectioning burns KM 50/0 to 57/0 of Gooty, Pathikonda, Adoni Road, As bad in law, arbitrary, contrary, contrary to the terms of agreement and high handed and consequently direct the respondent not insist or deduct the enhanced seigniorage from the bills/payments of the petitioner submitted for the works done by him by strictly following the terms of agreement entered into by the second respondent with the petitioner and to

refund the fee if any already deducted from the bills.

Counsel for the Petitioner: MR.M.RAMALINGESWARA REDDY

Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 7608 of 2005

Between:

M/s. Sai Krishna Constructions, rep. by its Managing Partner M.Sivaramu, S/o.Sri Laxminarayana, R/o.Yellareddy Village and Mandal, Nizamabad District.

..... PETITIONER

AND

- 1 The Government of Andhra Pradesh, rep. by its Secretary, Roads
Wings (PW), Department, Secretariat Buildings, Hyd.
- 2 The Superintendent Engineer, R&B., Niazamabad, Nizamabad
District.
- 3 The Executive Engineer, R&B., Nizamabad, Nizamabad District.
- 4 The Pay and Accountant Officer, Nizamabad, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or a direction or a writ more particularly a writ in the nature of Mandamus declaring the action of the respondents in not considering the petitioners case for reimbursement of excess seigniorage charges over and above the rates stipulated in the agreement as illegal and arbitrary in respect of the works of the agreement in Agreement No.88/2003-2004 dt.31.12.2004 relating to the NABARD -RIDF-Improvements to Yellareddy to Gandivet via Vellutla road from KM o/o to 15/7 in Nizamabad District.

Counsel for the Petitioner: MR.P.PRATAP REDDY

Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 8582 of 2005

Between:

C. Eswar Reddy & Company, Special Class Contractors,
Rep. by its Partner K. Ramakrishna Reddy, S/o. K., Pulla Reddy,
aged about 35 years, Flat No. 108, A-Block, Nizampet Road, Hyderabad.

..... PETITIONER

AND

- 1 The Executive Engineer, R & B Division, Kurnool
- 2 The Executive Engineer, R & B Division, Nandyal, Kurnool District,
- 3 The Executive Engineer, R & B Division, Adoni , Kurnool District,
- 4 The Executive Engineer, R & B Division, N.H. Division, Kurnool .
- 5 The Pay & Accounts Officer, Housing Board Complex, Abbas Nagar,

Kurnool.
- 6 The Asst. Pay & Accounts Officer, R & B Division, Nandyal, Kurnool

District.
- 7 The Superintendent Engineer, R & B Division, Kurnool

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, Order or direction mostly one which is in the nature of writ of MANDAMUS declaring the action of the respondents in seeking to apply the seigniorage charges as per G.O.Ms.No.217 dt.29.9.2004 in respect of the works entrusted to the petitioner company which are (a) Improvements to road from Kosigi to Kachapuram Road (via) Sajjalagudem, Jampapuram, from K.M. 0/0 to 13/6 in Adoni Division, Kurnool vide Agreement no.. 194/2003-2004. (b) Improvements to road from Kuppagal - Halvi road via Urukunda from KM 0/0 to 18/0 in Kurnool District vide agreement No. 211/2003-2004. (c) Improvements to road from Devanakonda to Marella from KM 0/0 to 10/0 in Kurnool District, (d) Improvements to road from, KM 0/0 to 10/0 in Plannapuram Village in Kurnool District. (e) Special repairs to road from 233/0 to 240/0 and 267/0 to 269/0 and 277/0 to 278/0 of NH 7 of Hyderabad - Bangalore Road. (f) Heavy periodic Maintenance to carriageway of Kalva - Betamcherla - Banaganapalli road from KM 0/0 to 26/0 in Kurnool District as arbitrary, illegal and violative of Art, 14 and 21 of Constitution of India, consequently direct the respondents to recover the seigniorage charges in accordance with the charges mentioned in the contract document or in the alternative to charge the enhanced rates to the value of the estimate by revising the rates.

Counsel for the Petitioner: MR.P.VEERA REDDY

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

WRIT PETITION NO : 9685 of 2005

Between:

K. Sanjeeva Reddy, s/o. Papi Reddy,
H.No. 2-6-1050, K.L.N. Reddy Colony, Hanumakonda Warangal.

..... PETITIONER

AND

- 1 The Superintending Engineer (R & B), Nizamabad Circle,

Nizamabad.
- 2 The Executive Engineer, R&B Division, Siddipet.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue any appropriate Writ, Order or direction more particularly one in the nature of a writ of mandamus declaring the action of the respondents in recovering the enhanced seigniorage fee under G.O.Ms.No.217 dt.29.9.2004 in respect of L.S. Agreement No.39/2004-05 dt.2.9.2004 executed between the petitioner and the respondents as illegal and void and consequently declare that the petitioner is liable to pay only seigniorage fee mentioned in L.S.Agreement No.39/2004-05dt. 2.9.2004 in respect of Improvements to the road from Ibrahimpur to Dubbak from KM o/o to 16/0 in Medak District.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 9720 of 2005

Between:

Ch. Srinivasa Rao, S/o. Sriram Murthy,
R/o. H.No.8-6, Challapally Complex, Warangal "X"Road,

Khammam Town and District.

..... PETITIONER

AND

- 1 The Pay and Accoutns Officer, Tekulapally, Khammam District.
- 2 The Superintending Engineer, R&B Circle, Khammam,

Khammam District.
- 3 The Executive Engineer, R& B Circle, Khammam, Khammam District.
- 4 The Exeucitve Engineer, R & B, Sub Division, Kothagudem,

Khammam District.
- 5 The Executive Engiener, R & B Sub Division, Bhadrachalam,
Khammam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed

herein the High Court may be pleased to Issue an appropriate Writ, Order or direction particularly one in the nature of Writ of Mandamus directing the respondents not to collect enhanced seigniorage charges from the petitioner in respect of all items in execution of contract works covered under the agreement and refund the enhanced seigniorage fee deducted from the bills of the petitioner.

Counsel for the Petitioner:MR.V.SREE RANGA RAO

Counsel for the Respondents: GP FOR TRANSPORT, ROADS & BUILDINGS

WRIT PETITION NO : 11722 of 2005

Between:

M/s.SRK Constructions & Projects Pvt.Ltd., rep.by its Managing Director,

Sri S.Ravi Kumar, S/o.Sanjeeva Reddy, R/o.H.No.2-695,
Eswar Singh Road, Nagarajpet, Kadapa-1.

..... PETITIONER

AND

- 1 The Managing Director, APRDC & EX-Officio Chief Engineer,
(R&B) EAP, Erramanzil, Hyderabad.
- 2 The Superintending Engineer (R&B) Circle, Kadapa, Kadapa Dist.
- 3 The Executive Engineer (R&B), Pulivendula, Kadapa Dist.
- 4 The Executive Engineer (R&B) R&B Division, Kadapa, Kadapa Dist.
- 5 The Executive Engineer (R&B) Proddutur, Kadapa Dist.
- 6 The Pay & Accounts officer, Kadapa, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of Mandamus, declaring the action of the respondents in seeking to apply the seigniorage charges as per G.O.Ms.NO.217 (Industries & Commerce (MI) Department dated 29-9-2004 in respect of the works entrusted to the petitioner company viz., (a) C.R.Agreement No.78/2004-05 dated 18-11-2004 (b) C.R. Agreement NO.73/2003-04 dated 8-10-2003, as arbitrary, illegal and violative of Article 14 and 21 of the Constitution of India and consequently direct the respondents to recover the seigniorage charges in accordance with the charges mentioned in the contract document as per the instructions issued in circular Memo NO.TA7/Courts/AEE.8/16541/2000, dated 31-1-2005 issued by the chief Engineer (R&B) Hyderabad.

Counsel for the Petitioner: MR.K.R.SASIDHARAN

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

WRIT PETITION NO : 11723 of 2005

Between:

M/s SRK Constructions and Projects Pvt, Ltd., rep by its Managing Director, Sri S.Ravi Kumar, S/o.Sanjeeva reddy
R/o.H.No.2-695, Eswar Singh Road,
Nagarjpet, Kadapa-1.

..... PETITIONER

AND

- 1 The Superintending Engineer (R&B) Circle National High Ways Circle,
Ananthapur, District.
- 2 The Executive Engineer (R&B) National High Ways Kadapa,
Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of Mandamus, declaring the action of the respondents in seeking to apply the Seigniorage charges as per G.O.Ms.No.217, (Industries and Commerce (M1) Department Dt.29.9.2004 in respect of the works entrusted to the petitioner company Viz., C.R.Agreement No.34/2004-05 dt.22.1.2005, as arbitrary, illegal and violative of Article 14 and 21 of the Constitution of India and consequently direct the respondents to recover the seigniorage charges in accordance with the charges mentioned in the contract document as per the instructions issued in circular Memo No.TA7/Courts/AEE.8/16541/2000 dt.31.1.2005 issued by the Chief Engineer (R&B) Hyderabad.

Counsel for the Petitioner: MR.K.R.SASIDHARAN

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

WRIT PETITION NO : 11724 of 2005

Between:

M/s.SRK Constructions & Projects Pvt.Ltd., rep.by its Managing Director,
Sri S.Ravi Kumar, S/o.Sanjeeva Reddy, R/o.H.No.2-695,
Eswar Singh Road, Nagarajpet, Kadapa-1.

..... PETITIONER

AND

- 1 The Managing Director, aprdc & EX-Officio Chief Engineer, (R&B)
EAP, Erramanzil, Hyderabad.
- 2 The Superintending Engineer (R&B) Circle, Kadapa, Kadapa Dist.
- 3 The Executive Engineer (R&B), Pulivendula, Kadapa Dist.
- 4 The Executive Engineer (R&B) R&B Division, Kadapa, Kadapa Dist.
- 5 The Executive Engineer (R&B) Proddutur, Kadapa Dist.
- 6 The Pay & Accounts officer, Kadapa, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of Mandamus, declaring the action of the respondents in seeking to apply the seigniorage charges as per G.O.Ms.NO.217 (Industries & Commerce (MI) Department dated 29-9-2004 in respect of the works entrusted to the petitioner company viz., (a) C.R.Agreement No.2/APERP/2004-05 dated 27-5-2004, (b) C.R. Agreement NO.38/2003-04 dated 4-7-2003,and (c) C.R.Agreement No.77/2004-05 dated 3-11-2004, as arbitrary, illegal and violative of Article 14 and 21 of the Constitution of India and consequently direct the respondents to recover the seigniorage charges in accordance with the charges mentioned in the contract document as per the instructions issued in circular Memo NO.TA7/Courts/AEE.8/16541/2000, dated 31-1-2005 issued by the chief Engineer (R&B) Hyderabad.

Counsel for the Petitioner: MR.K.R.SASIDHARAN
Counsel for the Respondents: GP FOR ROADS & BUILDINGS

WRIT PETITION NO : 11727 of 2005

Between:

M/s SRK Constructions and Projects Pvt., Ltd., rep. by its Managing Director, Sri S.Ravi Kumar, S/o.Sanjeeva Reddy
R/o.H.No.2-695,
Eswar Singh Road, Nagarajpet, Kadapa.

..... PETITIONER

AND

- 1 The Superintending Engineer (R&B) Circle, Kurnool, Kurnool District.
- 2 The Executive Engineer ((R&B) Division, Adoni, Kurnool District.
- 3 The Pay and Accounts Officer, Kurnool, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of Mandamus, declaring the action of the respondents in seeking to apply the Seigniorage charges as per G.O.Ms.No.217, (Industries and Commerce (MI) Department Dt.29.9.2004 in respect of the works entrusted to the petitioner company Viz., Agreements (a) C.R.Agreement No.204./2003-04, dt.20.10.2003, (b) C.R.Agreement No.206/2003-04 dt.23.1.2004, as arbitrary, illegal and violative of Article 14 and 21 of the constitution of India and Consequently direct the respondents to recover the Seigniorage charges in accordance with the charges mentioned in the contract document as per the instructions issued in circular Memo No.TA.7/Courts/AEE.8/16541/2000 dt.31.1.2005 issued by the Chief Engineer (R&B) Hyderabad.

Counsel for the Petitioner: MR.K.R.SASIDHARAN
Counsel for the Respondents: GP FOR ROADS & BUILDINGS

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.3892, 3894, 3895, 3896, 4125, 5066, 5114, 5233, 5742, 7608, 8582, 9685, 9720, 11722, 11723, 11724 and 11727 of 2005

COMMON ORDER:

All the Writ Petitions are filed by special class civil contractors registered with Government of Andhra Pradesh. They are aggrieved by the action of Roads & Buildings Department Engineers in seeking to recover from the bills submitted by the petitioners, the seigniorage fee at enhanced rates as enhanced by Government in notification issued under Section 15(1) of the Mines and Minerals (Regulation and Development) Act, 1957 (for short, the Act) vide G.O.Ms.No.217, dt.29.9.2004. This Court initially granted interim orders in some cases in which the Government came forward with applications for vacating the interim orders. At that stage, all the matters were directed to be listed, heard finally and are being disposed of by this common order.

To appreciate the controversy the facts in W.P.No.3892 of 2005 may be noticed as an illustrative case. The petitioner, M/s.Sujana Constructions, was awarded the work of improving the road from Km.31/0 to 41/0 at Kalyandurg Nagepalligate Road, via Kundurpi. The agreement between the petitioner and the Department was entered into on 30.8.2004. Clause 100 deals with the payment of seigniorage fee by the contractor. The same reads as under.

100. Seigniorage charges:

100.1 Seigniorage charges will be recovered as per rules from the work bills of the contract or based on the theoretical requirement materials at the following rates.

S.No.	Material	Seigniorage

1.2.3. 4.5.6.	SandMetal/BallastR.R.stone for masonryRevetment stoneC.R.S.stoneGarvel/Earth	Rs.30.00/cum.Rs.33.00/cum.Rs.33.00/cum. Rs.33.00/cum.Rs.33.00/cum.Rs.13.00/cum.
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100.2 The rates are liable to be revised and amended from time to time by the State Government, by notification in the ‘Andhra Pradesh Gazette’. If the revised seigniorage fee is more than the above mentioned, the recovery from the contractor’s bills is as per revised rates.

The petitioner, there is no dispute; commenced the work and thereafter the Government of Andhra Pradesh, in Industries & Commerce Department in exercise of their powers under sub-section (1) of Section 15 of the Act amended A.P. Minor Minerals Concession Rules, 1966 (for short, the Rules) (in G.O.Ms.No.1172, dt.4.9.1967). By reason of the said amendment in schedules I and II under Rule 10 of the Rules, new rates of seigniorage fee are prescribed and substituted. The rates of seigniorage fee were enhanced. Be it also noted that as per G.O.Ms.No.217, dt.29.9.2004, the enhanced rates came into force with effect from 1.10.2004.

After coming into force of the amendment to the A.P.Minor Minerals Rules with effect from 1.10.2004, it appears, the Engineers of Roads and Buildings Department insisted that the contractor should pay the enhanced seigniorage fee as per G.O.Ms.No.217, dt.29.9.2004 and also made attempts to deduct the enhanced seigniorage fee over and above the earlier rates from the bills submitted by the contractors. On this cause of action, all the writ petitions were filed.

In all other writ petitions, but for the difference in the dates of execution of the agreement and the dates for completion of the work, the facts are similar. In all the cases, petitioners entered into contracts prior to coming into force of G.O.Ms.No.217, dt.29.9.2004 and all the works are to be completed after 1.10.2004 and therefore they were also advised to pay enhanced rates of seigniorage fee.

In all the writ petitions respondents have filed counter affidavits. A reference may be made to the counter affidavit filed by third respondent in W.P.No.3892 of 2005. It is stated that as per the agreement seigniorage charges will be recovered as per the rules from the work of the contract or based on technical requirement of materials, and as per clause 100.2 the rates of seigniorage charges are liable to be revised as and when they are amended by the State Government in the A.P.Gazette. If the rates are revised and seigniorage fee is more than what is mentioned in the agreement, recovery has to be made from the bills submitted by the contractor. The petitioner agreed to condition No.100.2 and hence there is no illegality in collecting the enhanced rates of seigniorage fee as per G.O.Ms.No.217, dt.29.9.2004.

The Writ Petition is also opposed on the ground of maintainability and suggesting that grievance is redressable only in Civil Court. A reference is also made to an unreported judgment of Division Bench of this Court in **R.M.C.Constructions Ltd. V. The Engineer in Chief** (unreported judgment in W.P.No.26040 of 2001, dt.3.3.2003; hereafter called, **RMC Constructions** case) contending that the point raised herein is squarely covered by the Division Bench judgment just referred to.

Learned counsel for the petitioners, M/s.V.Sree Ranga Rao, A.Ramalingeswar Rao, P.Pratap Reddy, P.Veera Reddy, N.Sridhar Reddy, C.H.Satish Kumar, and K.R.Sasidharan made the following submissions. The amendment under Section 15(1) of the Act vide G.O.Ms.No.217, dt.29.9.2004 being prospective with effect from 1.10.2004, the enhanced rates of seigniorage fee cannot be collected from the contractors. Clause 100.2 is a vague clause and therefore cannot be enforced. Alternatively, as the work is estimated by taking into consideration the rates of seigniorage fee as they existed prior to coming into force of G.O.Ms.No.217, dt.29.9.2004 the liability to pay enhanced seigniorage fee is not on the contractor, and therefore enhanced rates cannot be collected or deducted from the bills submitted by the contractors. Alternatively they also submit that even if clause 100.2 enables the Government to collect enhanced rates of seigniorage fee in respect of work completed prior to 1.10.2004, the Government is not entitled to deduct or collect the enhanced seigniorage fee, prior to coming into force of G.O.Ms.No.217.

Learned Government Pleader for Roads and Buildings, Sri R. Satyanarayana Raju, at the out set, does not dispute that as per G.O.Ms.No.217, dt.29.9.2004 respondents are entitled to collect enhanced rates of seigniorage fee in respect of work or in respect of material extracted and used in the work after 1.10.2004. Therefore, this point need not detain this Court any longer. If there is any stray case where the respondents insisted upon the contractors to pay enhanced rates of seigniorage fee for the work completed from the date of contract till 30.9.2004, the respondents shall have to initiate steps for refunding or adjusting said amount in the other bills.

The core question is two-fold. Whether the Government can press into service clause 100.2 and whether Government can deduct the enhanced seigniorage fee as per G.O.Ms.No.217, dt.29.9.2004 from the bills submitted by the petitioners. Though there is feeble attempt on the part of the learned counsel for the petitioners, the question is squarely covered by unreported judgment of the Division Bench of this Court in **RMC Constructions** case (supra).

In **RMC Constructions** case (supra), the contractor was liable to pay seigniorage charges at the rate of 25% CMT. When the contract was in currency, the Government enhanced the rates of seigniorage fee by issuing notification vide G.O.Ms.No.331, dt. 21.6.2000. The action of the Government was impugned in the Writ Petition *inter alia* on the ground that G.O.Ms.No.331, dt.21.6.2000 being prospective in nature, the same cannot be applied to the contract entered into by the contractor prior to coming into force of the amendment. Reliance was also placed on the terms of the contract. The Division Bench did not agree with the submission. It was held that the State is entitled to collect seigniorage fee on the

minerals extracted and removed from the land and therefore, the rates applicable on the date of extraction of minerals is prevalent rate which has to be paid by the contractor. It is apposite to excerpt the following.

...In our considered opinion, the submission that levy and collection of the seigniorage charges at the rate of Rs.33/- per CMT would amount to giving retrospective operation to the amended Rules is misconceived. As we have observed hereinabove, the liability to pay the seigniorage fee specified is with reference to the extraction and removal of the minor minerals from the land for the purpose of consumption in any work whatsoever by the consumer. The State shall be entitled to levy and collect such seigniorage fee on the minor minerals extracted and removed from the land in accordance with the prevalent rates specified under the Rules as on that date of removal or extraction of the minor minerals. That is precisely what has happened in the instant case. The terms and conditions of agreement entered into by and between the parties or such similar arrangement if any made amongst the parties shall have no bearing upon the operation of the statute or statutory Rules as the case may be. The date on which the petitioner entered into an agreement with the respondents is totally irrelevant in our considered opinion for the purposes of levy and collection of the seigniorage fee in accordance with the rates specified under the Rules issued and amended from time to time.

A reading of the dicta, as above, would show that even in the absence of covenant/clause in the contract like clause 100.2 it is permissible for the Government to collect the enhanced rates of seigniorage fee. In this case, clause 100.2 obliges the contractor to pay the seigniorage charges as amended by the State from time to time and also empowers the employer to recover the revised rates of seigniorage fee from the bills of the contractor. It is admitted case of all the petitioners that they entered contracts with the Government and such contract includes clause 100.2 which empowers the State to recover the enhanced seigniorage fee from the bills. Reading clause 100.2, this Court is not able to countenance the submission of the learned counsel for the petitioners that it is vague. Clause 100.2 speaks of revised rates of seigniorage fee and publication of amendment in the gazette. The seigniorage fee can be prescribed by the State only in exercise of their powers under Section 15(1) of the Act by duly amending schedule I to A.P.Minor Minerals Concession Rules. In that view of the matter, there is neither vagueness nor confusion in clause 100.2 of agreement. Said clause certainly refers to the revision of seigniorage fee as per the provisions of the Act duly amending A.P.Minor Minerals Concession Rules. Thus, the case of the respondents in seeking to recover enhanced rates of seigniorage fee with effect from 1.10.2004 does not suffer from any vice of illegality. However, as already observed, the Government is entitled to recover enhanced rates of seigniorage fee only with effect from 1.10.2004 that too on the minerals extracted by the contractors after 1.10.2004.

The Writ Petitions, with the above observations, are accordingly dismissed.

(V.V.S.RAO, J)

22.6.2005

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To

- 1 The Secretary to Government of Andhra Pradesh, Roads & Buildings Department, Secretariat, Hyderabad.
- 2 The Superintending Engineer, Roads & Buildings Circle, Kurnool,

Kurnool District.
- 3 The Executive Engineer, Roads & Buildings Division, Anantapur, Anantapur District.
- 4 The Chief Engineer, Roads & Buildings, Erramanzil, Hyderabad.
- 5 Pay and Accounts Officer, Kurnool, Kurnool District.

- 6 The Secretary to Government of Andhra Pradesh, Irrigation Department, Secretariat, Hyderabad.
- 7 The Executive Engineer, Roads & Buildings Division Nalgonda,

Nalgond District.
- 8 The Executive Engineer, Roads & Buildings Division Miryalaguda,

Nalgonda District.
- 9 The Superintending Engineer, Roads & Buildings Circle, Nalgonda,

Nalgnonda District.
- 10 The Chief Engineer, Roads & Buildings, NABARD,

Erramanzil, Hyderabad.
- 11 The Chief Engineer, Roads & Buildings Roads, Hyderabad.
- 12 Pay Accounts Officer, G.V. Garden Nalgonda, Nalgonda District.
- 13 Assistant Pay and Accounts Officer, Ranga Reddy Ranga Reddy

District at Hyderabad.

- 14 The Superintending Engineer, Roads & Buildings Circle, Warangal,
Warangal District.
- 15 The Executive Engineer, Special Execution Division, Mahaboobabad,
Warangal District.
- 16 Pay and Accounts Officer, Chintagattu, Hanamkonda, Warangal
District.
- 17 The Superintending Engineer, Roads & Buildings, Seethammadhara,
Visakhapatnam District.
- 18 The Executive Engineer, South Division, Roads & Buildings,
Srikakulam, Srikakulam District.
- 19 The Pay & Accounts Officer, Srikakulam, Srikakulam District.
- 20 The Superintending Engineer, Roads & Buildings Circle, Karimnagar,
Karimnagar District.
- 21 The Executive Engineer, Roads & Buildings, Karimnagar,
Karimnagar District.
- 22 The Pay & Accounts Officer, LMD Colony, Karimnagar,
Karimnagar District.
- 23 The Superintending Engineer (Roads & Buildings, Circle, Guntur.
- 24 The Executive Engineer (Roads & Buildings) Tenali, Guntur District.
- 25 The Chief Engineer (Nabard), Errummanzil, Hyderabad.
- 26 The Pay & Accounts Officer (W & P) Guntur.
- 27 The Superintending Engineer, Roads & Bldgs, N.H. Circle,
Erramanzil, Hyderabad.
- 28 The Executive Engineer (R&B), N.H. Division No.2, Hyderabad.
- 29 The Executive Engineer, Roads & Buildings Division,
Kurnool, Near Raj Vihar Centre, Kurnool District.
- 30 The Pay and Accounts Officer, Housing Board Complex,
Abbas Nagar, Kurnool District.
- 31 The Government of Andhra Pradesh, rep. by its Secretary, Roads
Wings (PW), Department, Secretariat Buildings, Hyd.
- 32 The Superintendent Engineer, R&B., Nizamabad, Nizamabad
District.
- 33 The Executive Engineer, R&B., Nizamabad, Nizamabad District.
- 34 The Pay and Accountant Officer, Nizamabad, Nizamabad District.
District.
- 35 The Executive Engineer, R & B Division, Nandyal, Kurnool District,
- 36 The Executive Engineer, R & B Division, Adoni , Kurnool District,
- 37 The Executive Engineer, R & B Division, N.H. Division, Kurnool .
- 38 The Asst. Pay & Accounts Officer, R & B Division, Nandyal,
Kurnool District.
- 39 The Superintending Engineer (R & B), Nizamabad Circle,
Nizamabad.
- 40 The Executive Engineer, R&B Division, Siddipet.
- 41 The Pay and Accoutns Officer, Tekulapally, Khammam District.
- 42 The Superintending Engineer, R&B Circle, Khammam,
Khammam District.
- 43 The Executive Engineer, R& B Circle, Khammam, Khammam District.
- 44 The Exeucitve Engineer, R & B, Sub Division, Kothagudem,
Khammam District.
- 45 The Executive Engiener, R & B Sub Division, Bhadrachalam,
Khammam District.
- 46 The Managing Director, APRDC & EX-Officio Chief Engineer,
(R&B) EAP, Erramanzil, Hyderabad.

- 47 The Superintending Engineer (R&B) Circle, Kadapa, Kadapa Dist.
- 48 The Executive Engineer (R&B), Pulivendula, Kadapa Dist.
- 49 The Executive Engineer (R&B) R&B Division, Kadapa, Kadapa Dist.
- 50 The Executive Engineer (R&B) Proddutur, Kadapa Dist.
- 51 The Pay & Accounts officer, Kadapa, Kadapa District.

- 52 The Superintending Engineer (R&B) Circle National High Ways Circle,
Ananthapur, District.
- 53 The Executive Engineer (R&B) National High Ways Kadapa,
Kadapa District.

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High Court Buildings, Hyderabad. (OUT)

- 55 Two CCs to the Government Pleader for Irrigation & Command
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